

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** Justin McCarthy and Amber Cottle

**ASSESSMENT DISTRICT:** 3

**CASE NUMBER:** 2023-0224-V

**COUNCILMANIC DISTRICT:** 5

**HEARING DATE:** February 22, 2024

**PREPARED BY:** Jennifer Lechner  
Planner II



**REQUEST**

The applicants are requesting variances to allow a dwelling addition (covered porch/pavilion) with less setbacks<sup>1</sup> and buffer than required on property located at 1605 Pine Lane Retreat in Annapolis.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 3.52 acres of land and is located with 35 feet of frontage on Pine Lane Retreat. The property is identified as Lot 4 of Parcel 726 in Block 6 on Tax Map 45 in the Hickory Hill subdivision.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 5, effective January 29, 2012. This waterfront site lies entirely within the Chesapeake Bay Critical Area LDA – Limited Development Area, and is currently improved with a one-story dwelling with a finished basement, detached garage, pool, spa, shed, decks, patios, pier and associated facilities.

**PROPOSAL**

The applicants are proposing to construct an open air pavilion (17' x 25'6") with pergola (7'6" x 21') over a new 641 square foot patio, attached to the principal dwelling.

**REQUESTED VARIANCES**

§ 18-13-104 of the Anne Arundel Zoning Ordinance states that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands; and, that the 100-foot buffer shall be expanded beyond 100 feet to include slopes of 15% or greater. The proposed construction will disturb approximately 985 square feet of the expanded buffer, necessitating a variance. The final amount of disturbance will be determined during permit review.

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<sup>1</sup> Per § 18-4-501, a principal structure in an R1 District shall be set back a minimum of 15 feet from the side lot line. The proposed covered patio addition would be constructed as close as 21'-10" from the side lot line, therefore a setback variance is not required.

## **FINDINGS**

This Office finds that the subject property is irregularly shaped and oversized with regards to the minimum lot area requirement of 40,000 square feet and the minimum lot width requirement of 125 feet for a lot in the R1 District. The property is encumbered by steep slopes and the expanded buffer. The existing critical area lot coverage of the site is 22,163 square feet. The proposed post-construction lot coverage is 22,803 square feet, which is below the lot coverage allowed under §17-8-402 (15% or 22,999.65 square feet). The existing coverage by structures is 7,387 square feet. The proposed post-construction coverage by structures is 7,821 square feet, which is well below the 25% (38,332.75 square feet) maximum coverage by structures allowed under §18-4-501. A review of the County 2023 aerial photography shows an eclectic mix of dwellings and lots in this waterfront community.

The applicants' letter states that approximately 90% of the lot is within steep slopes including the main dwelling and surrounding areas. They believe that this unique physical condition does not allow a reasonable possibility of developing a covered outdoor space on this lot. Their request is for development within the expanded buffer for steep slopes, not disturbance to the slopes themselves, and will not exceed the allowable lot coverage for their property. They are proposing the covered patio in an existing level area adjacent to the main dwelling and an existing concrete wall. They further believe that strict implementation of the critical area program presents unwarranted hardship leaving the lot undevelopable for expansion or additional use.

### **Agency Comments**

The **Health Department** has reviewed the on-site sewage disposal and well water supply system for the above referenced property, has determined that the proposed request does not adversely affect the on-site sewage disposal and well water supply systems, and has no objection to the above referenced request.

The **Recreation and Parks Department** has noted that the proposed development is consistent with the spirit of the Green Infrastructure Master Plan.

The **Critical Area Team** states that the existing improvements provide expansive opportunities for outdoor living. Additional disturbance to the onsite environmental features does not comply with the standards required for variance approval.

Comments from the **Critical Area Commission** were not received.

### **Variance Criteria**

For the granting of a Critical Area variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular property, strict implementation of the County's Critical Area Program would result in an unwarranted hardship. COMAR defines unwarranted hardship as that, without a variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

There is nothing unique about the subject property as it relates to other nearby residential lots with similar zoning and environmental features; and, there are no unique circumstances preventing the applicant from complying with the Code. Although a majority of the property is encumbered by steep slopes and entirely within the expanded buffer, the applicants already enjoy reasonable and significant use of the parcel by way of the extensive patio and deck areas for outdoor living. A literal interpretation of the County's Critical Area program will not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the Critical Area of the County because development is prohibited in the expanded buffer. As such, the granting of the variance will confer on the applicant special privileges that would be denied by COMAR, Title 27.

The variance request is not based on conditions or circumstances that are the result of actions by the applicants, and does not arise from any condition relating to land or building use on any neighboring property.

The granting of a variance which will permanently disturb the expanded buffer will adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area, and will not be in harmony with the general spirit and intent of the County's critical area program.

The variance would not alter the essential character of the neighborhood, nor would it impair the appropriate use or development of adjacent properties.

### Summary

While pavilions and pergolas are common amenities for single family dwellings, particularly on waterfront lots, the proposed addition seeks to expand an already generous outdoor living area. Because there is opportunity to construct an open air pavilion and pergola over the existing patios or decks, denial of the variance would not cause hardship in the use of this property. Since the variance is not justified, the request cannot be considered the minimum necessary to afford relief.

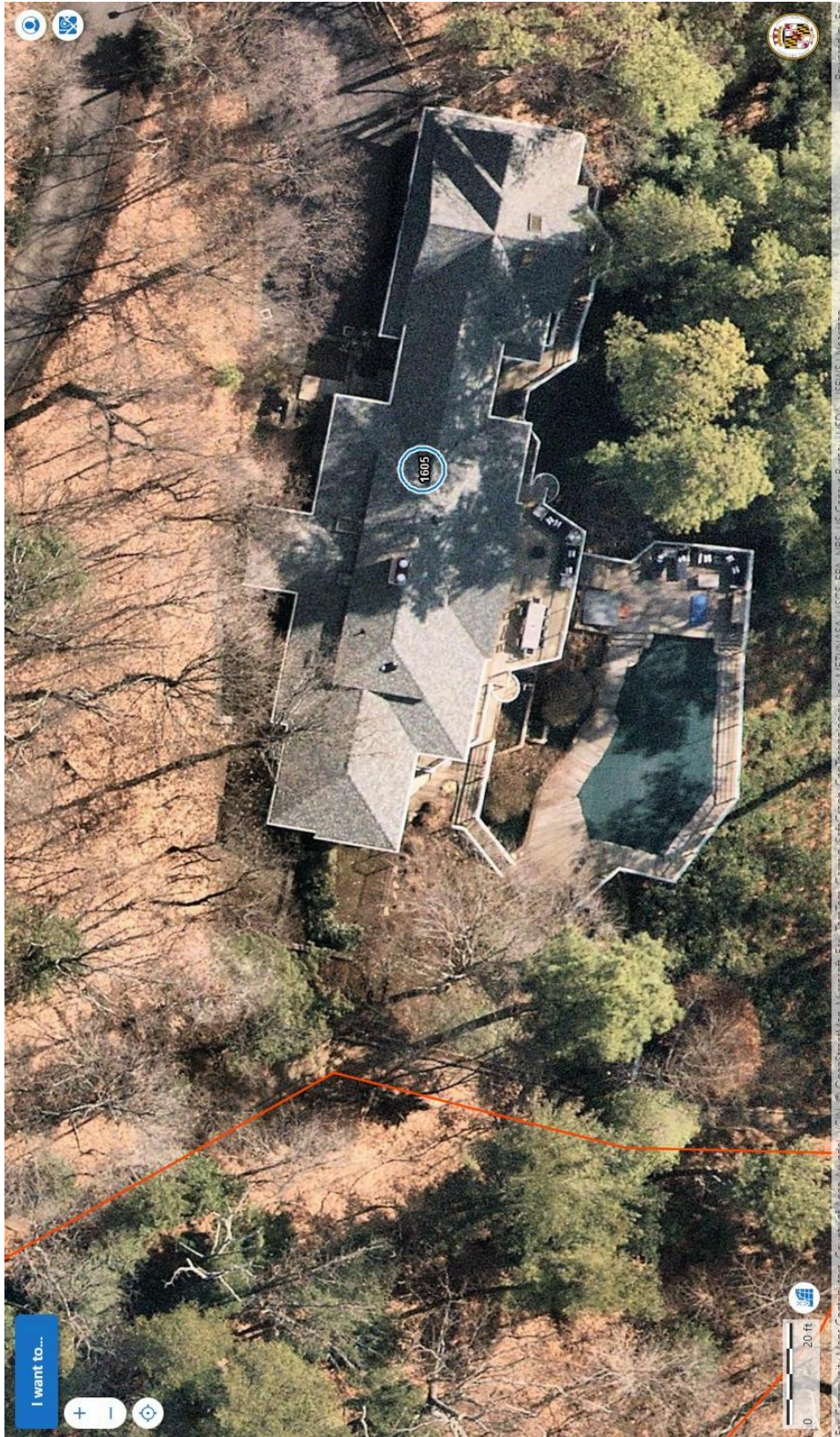
### RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the County Code under which a variance may be granted this Office recommends *denial* of a zoning variance to § 18-13-104 to allow disturbance to the expanded buffer. If granted, the final amount of disturbance will be determined during permit review.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



## 2023 DETAIL







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## LETTER OF EXPLANATION

(NOTE: This letter has been updated and modified in response to pre-file (2023-0050-P) Comment letter.)

To whom it may concern, this letter is to serve as explanation and description for the variance application for the property listed below. Any questions or comments can be directed to myself or the owners, of which our contact information is below.

### Site Information:

- 1605 Pine Lane Retreat, Annapolis, MD 21409
- Owners – Amber Cottle & Justin McCarthy
- Applicant – McHale Landscape Design – Matthew Rhoderick

The following letter of explanation is for a Variance Request for 1605 Pine Lane Retreat, Annapolis, MD 21409 by McHale Landscape Design (*Applicant*) on the behalf of Amber Cottle and Justin McCarthy (*Owner*). This project was submitted previously via permit application AACO Record# B02420458. On 09/15/2023 we received a comment made by Michael Day referencing § Article 18-13-104 informing us that a variance was required. This application in response to that comment copied below:

- *§ Article 18-13-104 Buffers, expanded buffers, and buffer modification areas. Comment “As per § Article 18-13-104 the critical area buffer expands to include all contiguous slopes 15% or greater and all land within 50 feet from the top of the slopes. This proposal is within the Critical Area buffer. Disturbance is not permitted within the Critical Area buffer without prior approval through the variance process. Please contact the Zoning Division to discuss the Variance process as 410-222-7437.”*

### Property Description:

1605 Pine Lane Retreat is a 3.52 acre primarily wooded lot with approximately 90% of the property being composed of steep slopes. The property has a narrow entry asphalt drive (11,048 SF total) that slopes away from Pine Lane Retreat through wooded area, passing a detached 1,478 SF garage, leading down to a 4,860 SF main dwelling, and attached garage set just outside of the 100' buffer approximately 50' above the MHW of Cool Spring Creek. In between the main dwelling there is an attached wood pool deck, pool, and water access steps to the waterfront. All existing structures are located appropriately outside of the R1 residential zoning setbacks. (Primary: F-40', R-35', S-15'/40'\* Accessory: F-50', R-15', S-15') On the western side of the main dwelling, there is an attached existing 7'4" tall concrete retaining wall that slopes down to 1'6" tall as it slopes its way further west and down to the waterfront. The existing attached retaining wall creates a level courtyard approximately 20'x25' in dimension adjacent to the main dwelling basement walkout. The existing level courtyard area is the location proposed for this project.

### Project Description:



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The proposed scope of work is for a 17'x25'6" open-air pavilion with 7'6"x21' attached pergola all attached to the main dwelling located in the existing level courtyard area created by the existing concrete retaining wall. The proposed open-air pavilion is 15'3" at its tallest point. The proposed structure is 21'10" away from its closest point to the western

property line, 111'10" away from the southern property line, 287' away from the eastern property line, and 456' from the northern property line. The proposed structure is 151'10" away from the MHW at its closest point.

The justification requirements for this Variance Request are as follows:

- § 18-16-305. Variances - (a) Requirements for zoning variances. *The Administrative Hearing Officer may vary or modify the provisions of this article when it is alleged that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:*
  - o (1) *Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or*
  - o (2) *Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.*
    - Applicant Response: Exceptional topography on this lot does not allow the reasonable possibility of developing a covered outdoor space on this lot that is enjoyed by other properties in similar areas. Further detail into this lot is provided in the below responses.
- § 18-16-305. Variances - (b) Requirements for critical or bog protection area variances. *For a property located in the critical area or a bog protection area, a variance to the requirements of the County's critical area program or the bog protection program may be granted if the Administrative Hearing Officer makes the following affirmative findings:*
  - o (1) *Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program or bog protection program would result in an unwarranted hardship, as that term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;*
    - Applicant Response: 1605 Pine Lane has a unique physical condition of exceptional topography conditions in which approximately 90% of the lot is within steep slopes including the main dwelling and surrounding areas. This request is for development within the expanded buffer for steep slopes, not disturbance to the slopes themselves. Strict implementation of the critical area program presents unwarranted hardship leaving the lot undevelopable for expansion or additional use.





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- *(2) (i) A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County; or (ii) The County's bog protection program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the bog protection area of the County;*
  - Applicant Response: 1605 Pine Lane does NOT currently have any covered outdoor living space. The proposed project will provide the owners with covered outdoor space that is enjoyed by other properties adjacent properties in the neighborhood and along the Severn River.
- *(3) The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area, or the County's bog protection program to other lands or structures within a bog protection area;*
  - Applicant Response: The granting of a variance will not confer any special privilege. The proposed area will allow and covered space, similar to that which is enjoyed by properties in similar areas while NOT exceeding the site's allowable lot coverage or creating any negative disturbance of the steep slope or steep slope buffer.
- *(4) The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property;*
  - Applicant Response: This variance request is NOT based on conditions or circumstances that are the result of actions by the owner or applicant. The owners purchased the property in 2019 and no considerable work has been performed since then. All structures on site have existed previously and have not been built as an action of current owners.
- *(5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program;*
  - Applicant Response: 1605 Pine Lane is also unique in that there is an approximate 20'x25' level area located in the expanded buffer that could be developed without adversely affecting water quality, fish, wildlife, or plant habitat within the critical area. The proposed construction would be performed entirely in a contained flat area directly adjacent to the main dwelling and a connected pre-existing concrete retaining wall. No disturbance will be made to steep slopes due to the unique nature of the project area. Furthermore, native planting stabilization of the existing steep slope just adjacent to the project area is included in the scope of work.



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- (6) *The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code;*
  - Applicant Response: The proposed scope of work is outside of the 100-upland buffer. The development distance from the waterfront has been maximized as the remainder of the site is entirely in steep slopes and the proposed footprint of the project lies in a unique flat area that has been created by an existing retaining wall that is connected to the main residence.
- (7) *The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code; and*
  - Applicant Response: The proposed development meets zoning and lot coverage requirements, and would be limited to a request for a variance to strict implementation of the expanded buffer to steep slopes.
- (8) *The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c).*
  - Applicant Response: The applicant has completed the pre-file. Confirmation (2023-0050-P). There are no lower impact site planning alternatives existing on the site.
- § 18-16-305. Variances - (c) Requirements for all variances. A variance may not be granted unless it is found that:
  - (1) *the variance is the minimum variance necessary to afford relief; and*
  - (2) *the granting of the variance will not:*
    - (i) *alter the essential character of the neighborhood or district in which the lot is located;*
    - (ii) *substantially impair the appropriate use or development of adjacent property;*
    - (iii) *reduce forest cover in the limited development and resource conservation areas of the critical area;*
    - (iv) *be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor*
    - (v) *be detrimental to the public welfare.*
  - Applicant Response: The proposed scope of work utilizes an existing flat area and no additional space, providing for a modest outdoor space in relation to the size of the house, and is the minimum necessary to utilize this space. It will not impair use and development of any adjacent property, does not reduce forest cover, require any clearing or be detrimental to the public welfare.



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Thank you for your consideration.

Sincerely,

Applicant Information:

- McHale Landscape Design MHIC #29697
- 911 West Street, Annapolis, MD 21401
- (410)-990-0894

- Matthew Roderick – Registered Landscape Architect, #3731
- (301)-512-8234
- Mattr@mchalelandscape.com

CRITICAL AREA COMMISSION  
 CHESAPEAKE AND ATLANTIC COASTAL BAYS  
 1804 WEST STREET, SUITE 100  
 ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: ANNE ARUNDEL COUNTY

Date: 12/07/23

Tax Map #	Parcel #	Block #	Lot #	Section
0045	0726	NA	4	NA

Tax ID:

**FOR RESUBMITTAL ONLY**

- Corrections
- Redesign
- No Change
- Non-Critical Area

\*Complete Only Page 1  
 General Project Information

Project Name (site name, subdivision name, or other)

COTTLE - HICKORY HILL

Project location/Address

1605 PINE LANE RETREAT

City  Zip

ANNAPOLIS

21409

Local case number

2023-0050-P

Applicant: Last name  First name

MOORE

ANDREW

Company

McHALE LANDSCAPE DESIGN

**Application Type (check all that apply):**

- |  |  |
|--|--|
| Building Permit <input type="checkbox"/>           | Variance <input checked="" type="checkbox"/> |
| Buffer Management Plan <input type="checkbox"/>    | Rezoning <input type="checkbox"/>            |
| Conditional Use <input type="checkbox"/>           | Site Plan <input type="checkbox"/>           |
| Consistency Report <input type="checkbox"/>        | Special Exception <input type="checkbox"/>   |
| Disturbance > 5,000 sq ft <input type="checkbox"/> | Subdivision <input type="checkbox"/>         |
| Grading Permit <input type="checkbox"/>            | Other <input type="checkbox"/>               |

**Local Jurisdiction Contact Information:**

Last name  First name

Phone #  Response from Commission Required By

Fax #  Hearing date

**SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:

CONSTRUCT ATTACHED OPEN AIR PAVILION TO MAIN DWELLING

Intra-Family Transfer	Yes <input type="checkbox"/>	Growth Allocation	Yes <input type="checkbox"/>
Grandfathered Lot	<input type="checkbox"/>	Buffer Exemption Area	<input type="checkbox"/>

**Project Type (check all that apply)**

Commercial	<input type="checkbox"/>	Recreational	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Redevelopment	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	Residential	<input checked="" type="checkbox"/>
Institutional	<input type="checkbox"/>	Shore Erosion Control	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Water-Dependent Facility	<input type="checkbox"/>
Other	<input type="checkbox"/>		

**SITE INVENTORY (Enter acres or square feet)**

	Acres	Sq Ft	Total Disturbed Area	Acres	Sq Ft
IDA Area				0.0226	984
LDA Area	3.519	153,331			
RCA Area					
Total Area	3.519	153,331	# of Lots Created	0	

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	2.789	121,484	Existing Lot Coverage	0.509	22,163
Created Forest/Woodland/Trees	0	0	New Lot Coverage	0.015	640
Removed Forest/Woodland/Trees	0	0	Removed Lot Coverage	0	0
			Total Lot Coverage	0.523	22,803

**VARIANCE INFORMATION (Check all that apply)**

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0.0226	984	Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

<u>Variance Type</u>		<u>Structure</u>	
Buffer	<input checked="" type="checkbox"/>	Acc. Structure Addition	<input checked="" type="checkbox"/>
Forest Clearing	<input type="checkbox"/>	Barn	<input type="checkbox"/>
HPA Impact	<input type="checkbox"/>	Deck	<input type="checkbox"/>
Lot Coverage	<input type="checkbox"/>	Dwelling	<input type="checkbox"/>
Expanded Buffer	<input type="checkbox"/>	Dwelling Addition	<input type="checkbox"/>
Nontidal Wetlands	<input type="checkbox"/>	Garage	<input type="checkbox"/>
Setback	<input type="checkbox"/>	Gazebo	<input type="checkbox"/>
Steep Slopes	<input checked="" type="checkbox"/>	Patio	<input type="checkbox"/>
Other	<input type="checkbox"/>	Pool	<input type="checkbox"/>
		Shed	<input type="checkbox"/>
		Other	<input type="checkbox"/>



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## CRITICAL AREA REPORT NARRATIVE

### Site Information:

- 1605 Pine Lane Retreat, Annapolis, MD 21409
- Owners – Amber Cottle & Justin McCarthy
- Applicant – McHale Landscape Design – Matthew Rhoderick

Describe the proposed use of the subject property and include if the project is residential, commercial, industrial, or maritime.

- 1605 Pine Lane Retreat is a 3.52 acre, primarily wooded, waterfront, RESIDENTIAL SINGLE FAMILY DWELLING, with approximately 90% of the property being composed of steep slopes. The primary dwelling sits approximately 50' above the MHW of Cool Spring Creek. The property is within the R1 residential zone and is in the LDA Critical area classification.

Describe the type of predominant trees and shrubs on the subject property. Include a statement addressing the square footage of the property that is vegetated with trees and shrubs, how much of the property will be disturbed by the proposed development, and how the disturbance will be mitigated.

- Predominant trees include Pines, Beech, Oak, Maple, and Holly. Predominant shrubs include Bamboo, Yew, Laurel, Mahonia, but much of the wooded area is predominantly Shade, Evergreen, and understory trees with minimal shrubs. The total wooded area for the property is 121,484 SF (Total Site Area = 153,331 SF). The total area (Non-Wooded) to be disturbed is 984 SF, and only ornamental shrubs will be transplanted and relocated for the project. Any required mitigation for the disturbance will be planted on existing slope in the form of native shrubs and perennials between the proposed work and the waterfront.

Describe the methods to minimize impacts on water quality and habitat from proposed construction (i.e. stormwater management, sediment control, and silt fence).

- A reinforced silt fence will be installed around the proposed disturbance. No machinery to be used in the construction process. All materials to be unloaded from existing driveway and staged in project area by hand or wheelbarrow. Stormwater management to be addressed with the following Environment Site Design (ESD) elements:
  - a. Disconnection of Rooftop Runoff (N-1) – Downspouts from proposed roof area to sheet flow over disconnect areas on landscaped sections of slope. Landscape stones to be installed to maintain sheetflow.
  - b. Disconnection of Non-Rooftop Runoff (N-2) – Runoff from proposed non-roofed area to sheet flow over disconnect areas on landscaped sections of slope. Landscape stones to be installed to maintain sheetflow.
  - c. Rainwater Harvesting (Cisterns and Rain Barrels) (M-1) – Roof area runoff to be captured directly into rain barrels from roof downspouts. Rain barrels to be utilized for planting irrigation purposed.



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Calculate the impervious surface before and after construction, including all structures, gravel areas, driveways, and concrete areas.

- The existing impervious surface (Lot Coverage) is as follows: Residence – 4,860 SF, Garage – 1,478 SF, Pool Shed – 174 SF, Driveway – 11,048 SF, Stone Patios and Walks – 851 SF, Fountain – 502 SF, Pool – 826 SF, Spa – 49 SF, and Stone Stairs – 2,375 SF. Total Existing Impervious Area (Lot Coverage) = 22,163 SF. The proposed impervious surface (Lot Coverage) is as follows: Proposed Pavilion – 434 SF and Proposed Stone Patio – 207 SF. The total existing and proposed impervious area (Lot Coverage) = 22,803 SF. The allowable lot coverage per classification LDA is 15% or 23,000 SF

If applicable, describe any habitat protection areas on the subject property including expanded buffers, steep slopes of 15% or greater, rare and endangered species, anadromous fish propagation waters, colonial waterbird nesting sites, historic waterfowl staging and concentration areas, riparian forests, natural heritage areas, and plant and wildlife habitats of local significance.

- The applicable habitat protection areas subject to this property are expanded buffers and steep slopes of 15% or greater. As previously noted, approximately 90% of the property is composed of steep slopes. Portions or all the existing driveway, dwelling, and outdoor entertaining space is located within the buffer or expanded buffer. The proposed area of work is unique in that it is within the expanded buffer but is essentially flat due to a preexisting retaining wall on the property. Construction and final use of the proposed work will have little to no effect on the existing buffer and expanded buffer after the stormwater has been mitigated by ESD practices.

Sincerely,

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  - o (410)-990-0894
- Matthew Rhoderick – Registered Landscape Architect, #3731
  - o (301)-512-8234
  - o [Mattr@mchalelandscape.com](mailto:Mattr@mchalelandscape.com)



**McHALE**  
LANDSCAPE  
DESIGN, INC.

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(703) 760-8600

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[info@mchalelandscape.com](mailto:info@mchalelandscape.com)

### EXISTING PHOTOS





# Topographic Map - Lot outline ref only not exact



## Legend

Foundation

Parcels



Elevation

Topo 2020

Index

Intermediate



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



Esri Community Maps Contributors,  
County of Anne Arundel, VGIN, ©  
OpenStreetMap, Microsoft, Esri,  
HERE, Garmin, SafeGraph,  
GeoTechnologies, Inc, METI/NASA,



THIS MAP IS NOT TO BE  
USED FOR NAVIGATION

Notes 1" = 200 ft 1" = 200 ft - Lot outline ref only NOT exact

# National Flood Hazard Layer FIRMette



76°30'31"W 39°15'N



76°29'54"W 39°0'37"N

Basemap Imagery Source: USGS National Map 2023

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

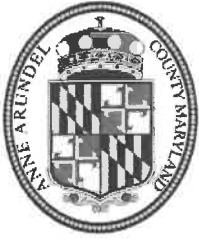
- |                                    |           |   |
|------------------------------------|-----------|---|
| <b>SPECIAL FLOOD HAZARD AREAS</b>  |           | Without Base Flood Elevation (BFE)<br>Zone A, V A99   |
|                                    |           | With BFE or Depth Zone AE, AO, AH, VE, AR   |
|                                    |           | Regulatory Floodway   |
| <b>OTHER AREAS OF FLOOD HAZARD</b> |           | 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X |
|                                    |           | Future Conditions 1% Annual Chance Flood Hazard Zone X  |
|                                    |           | Area with Reduced Flood Risk due to Levee. See Notes. Zone X  |
|                                    |           | Area with Flood Risk due to Levee Zone D  |
| <b>OTHER AREAS</b>                 | NO SCREEN | Area of Minimal Flood Hazard Zone X   |
|                                    |           | Effective LOMRs   |
|                                    |           | Area of Undetermined Flood Hazard Zone D  |
| <b>GENERAL STRUCTURES</b>          | - - - -   | Channel, Culvert, or Storm Sewer  |
|                                    |           | Levee, Dike, or Floodwall   |
| <b>OTHER FEATURES</b>              |           | 20.2 Cross Sections with 1% Annual Chance   |
|                                    |           | 17.5 Water Surface Elevation  |
|                                    |           | Coastal Transect  |
|                                    |           | Base Flood Elevation Line (BFE)   |
|                                    |           | Limit of Study  |
| <b>MAP PANELS</b>                  |           | Jurisdiction Boundary   |
|                                    |           | Coastal Transect Baseline   |
|                                    |           | Profile Baseline  |
|                                    |           | Hydrographic Feature  |
|                                    |           | The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.                              |
|                                    |           | Digital Data Available  |
|                                    |           | No Digital Data Available   |
|                                    |           | Unmapped  |



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **12/11/2023 at 10:01 AM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



# OFFICE OF PLANNING AND ZONING

## CONFIRMATION OF PRE-FILE (2023-0050-P)

DATE OF MEETING: 11/08/2023

P&Z STAFF: Sara Anzelmo, Kelly Krinetz

APPLICANT/REPRESENTATIVE: Justin McCarthy/Andrew Moore EMAIL: andrewm@mchalelandscape.com

SITE LOCATION: 1605 Pine Lane Retreat LOT SIZE: 3.519 ac ZONING: R1

CA DESIGNATION: LDA BMA: X or BUFFER: Yes APPLICATION TYPE: Critical Area Variance

1605 Pine Lane Retreat is a 3.52 acre primarily wooded lot with approximately 90% of the property being composed of steep slopes. The property has a narrow entry asphalt drive (11,048 SF total) that slopes away from Pine Lane Retreat through wooded area, passing a detached 1,478 SF garage, leading down to a 4,860 SF main dwelling, and attached garage set just outside of the 100' buffer approx. 50' above the MHW of Cool Spring Creek. In between the main dwelling there is an attached wood pool deck, pool, and water access steps to the waterfront. All existing structures are located appropriately outside of the R1 residential zoning setbacks. On the western side of the main dwelling, there is an attached existing 7'4" tall concrete retaining wall that slopes down to 1'6" tall as it slopes its way further west and down to the waterfront. The existing attached retaining wall creates a level courtyard approximately 20'x25' in dimension adjacent to the main dwelling basement walkout. The existing level courtyard area is the location proposed for this project.

**Project Description:** The proposed scope of work is for a 17'x25'6" open-air pavilion with 7'6"x21' attached pergola [both over a proposed stone patio] all attached to the main dwelling located in the existing level courtyard area created by the existing concrete retaining wall. The proposed open-air pavilion is 15'3" at its tallest point. The structure is 21'10" away from its closest point to the western property line, 111'10" away from the southern property line, 287' away from the eastern property line, and 456' from the northern property line. The structure is 151'10" away from the MHW at its closest point.

**Justification:** The property has a unique physical condition of exceptional topography conditions in which approximately 90% of the lot is within steep slopes including the main dwelling and surrounding areas. This unique condition prohibits the owner from developing their property to its full potential while still staying under the site's allowable lot coverage. There is an approximate 20'x25' level area located in the expanded buffer that could be developed without adversely affecting water quality, fish, wildlife, or plant habitat within the critical area. The proposed construction would be performed entirely in a contained flat area directly adjacent to the main dwelling and a connected pre-existing concrete retaining wall. No disturbance will be made to steep slopes due to the unique nature of the project area. Native planting stabilization of the existing steep slope just adjacent to the project area is included in the scope of work.

### COMMENTS

The **Critical Area Team** notes that this site currently enjoys expansive outdoor amenities. It is encumbered by a non-modified buffer and steep slopes. The proposed location, although flat, falls within the expanded buffer and is surrounded by steep slopes. The applicant has not demonstrated full compliance with all requirements necessary for variance approval. The Team does not see how this office could support this request and allow additional development in an already overly developed expanded buffer.

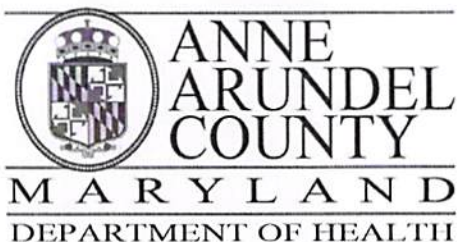
The **Zoning Administration Section** concurs with the Critical Area Team and reminds the application that, in order for a Critical Area variance to be approved, the applicant must demonstrate and the Hearing Officer must find that the proposal complies with each and every variance standard provided under Section 18-16-305(b) and (c).

### INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

\*\*\* A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence. A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.



J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7095 Fax: 410-222-7294  
Maryland Relay (TTY): 711  
www.aahealth.org

**Tonii Gedin, RN, DNP**  
Health Officer

**MEMORANDUM**

TO: Sadé Medina, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health *BC*

DATE: December 18, 2023

RE: Justin McCarthy  
1605 Pine Lane Retreat  
Annapolis, MD 21409

NUMBER: 2023-0224-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling addition (covered porch/pavillion) with less setbacks and buffer than required.

The Health Department has reviewed the on-site sewage disposal and well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal and well water supply systems. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



STUART PITTMAN, COUNTY EXECUTIVE  
JESSICA LEYS, DIRECTOR  
RECREATION AND PARKS  
1 HARRY S. TRUMAN PKWY  
ANNAPOLIS, MD 21401  
A.A.COUNTY.ORG/RECPARKS



## MEMORANDUM

TO: Sadé Medina, Zoning Division  
Office of Planning and Zoning

FROM: Pat Slayton  
Capital Projects Division

SUBJECT: Variance Case 2023-0224-V

DATE: December 19, 2023

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The Department of Recreation and Parks has reviewed the above plans to determine if there may be impacts to the Anne Arundel County Green Infrastructure Network, parks, and trails. Please note our recommendations according to those findings below.

- This site lies within the Anne Arundel County Green Infrastructure Network, a proposed preservation area considered in the Anne Arundel County Green Infrastructure Master Plan. The proposed development is consistent with the spirit of the Green Infrastructure Master Plan.

The Department of Recreation and Parks has no further comments.

cc: File

# 2023-0224-V

Menu Cancel Help

**Task**  
OPZ Critical Area Team  
**Assigned to Department**  
OPZ Critical Area  
**Action by Department**  
OPZ Critical Area  
**Start Time**

**Due Date**  
01/03/2024  
**Assigned to**  
Kelly Krinetz  
**Action By**  
Kelly Krinetz  
**End Time**

**Assigned Date**  
12/13/2023  
**Status**  
Complete w/ Comments  
**Status Date**  
12/19/2023  
**Hours Spent**  
0.0

**Billable**  
No

**Overtime**  
No

**Comments**  
The existing improvements provide expansive opportunities for outdoor living. Additional disturbance to the onsite environmental features does not comply with the standards required for variance approval.

**Time Tracking Start Date**  
**Display E-mail Address in ACA** No

**Est. Completion Date**  
 **Display Comment in ACA**

**In Possession Time (hrs)**  
**Comment Display in ACA**  
 All ACA Users  
 Record Creator  
 Licensed Professional  
 Contact  
 Owner

**Estimated Hours**  
0.0

**Action**  
Updated

**Workflow Calendar**

Task Specific Information

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**Review Notes**  
**Reviewer Email**

**Reviewer Name**

**Reviewer Phone Number**